

# EXHIBIT 5

## CLAIMS IN SECOND AMENDMENT

10-15-04

AFTER  
OFFICE ACTION

(CLAIMS  
CLARIFIED)

THE CLAIMS revised 10/15/04

What I claim as my invention is:

1. (Currently amended) A method for using a computer to enable or to facilitate ~~communication~~ the sending or transmission of email or electronic mail text ~~communication between 2 or more parties~~ in which a the Sender party, at or before the time of sending or transmitting the communication, pays a fee, bears a cost, or provides consideration which benefits in part the receiving party, comprising:
  - i. utilizing a network presence;
  - ii. establishing and organizing one or more network or Internet-based Merchant Intermediaries, email gateways, message centers, e-commerce sites, or combinations thereof;
  - iii. [ii.] enabling one or more Sender Parties to input terms or information—inputting into the website, computer, or other database ~~computer search terms or information,~~ including by the use of clicks on hypertext links, to search for or to locate a Receiver Party or an address, name, account, location, affiliation,

or reference identification associated with a specific party to receive the communication;

iv. [iii.]enabling one or more Sender Parties to input ~~inputting~~ into the computer information (including inputting text, graphics, sound, or other information), that creates, formats, forwards, edits, modifies, addresses, or directs a communication or transmission;

v. [iv.]enabling one or more Sender Parties to input ~~inputting~~ into the computer a payment identifier, account information, security code, or other information to enable a Sender party to pay for, to assume a cost or obligation, to charge or otherwise to bill, to account, to debit, to access benefits, to license, or otherwise to transfer benefits or consideration that in whole or in part benefit a receiver party;

vi. [v.]charging or requiring a threshold payment ~~or fee, accounting of pre-existing benefits, or a present transfer of benefits or consideration by Caller Party, Fan, or other party on Caller Party or Fan's behalf~~ from Sender Party, at or before the time of sending or transmission of the Sender's prior to connecting, sending, transmitting, or

~~forwarding Caller Party's or Fan's~~  
communication to Receiver Party's account,  
~~address, or to a location associated with a~~  
~~specific receiver;~~

vii. ~~[vi.]~~segregating, transmitting, storing,  
holding, distributing, or passing through  
transmissions or communications ~~directed~~ to an  
account, address, or location associated with  
a specific receiver party, account, or  
~~address;~~

viii. ~~[vii.]~~compensating party who receives  
communications or participates in the method.

2. (Currently amended) The method of claim 1, in which the  
step of ~~utilizing a network presence~~ establishing and  
organizing one or more network or Internet-based Merchant  
Intermediaries, email gateways, message centers, e-  
commerce sites, or combinations thereof, comprises:

- i. establishing one or more network presence(s)  
on one or more networks, computers, or  
devices;
- ii. establishing one or more internet-based web-  
sites or network based interactive information  
providers including those incorporating one or  
more databases, web-based email providers,

email gateways, traditional mail servers, e-commerce sites, or combinations thereof;

iii. organizing one or more internet-based web-sites or network-based interactive information providers including those incorporating one or more databases, web-based email servers, email gateways, traditional mail servers, e-commerce sites, or combinations thereof to allow Receiver Parties to input information; enable Receiver Parties to provide requested information (including contact, authentication, or financial information relating to Receiver Party) or other information requested by Merchant Intermediary; establish accounts (including email and payment accounts); enable one or more Receiver parties to list or publish information about themselves on the network presence or web-site of the Merchant Intermediaries; bind Receiver Party to agreement with Merchant Intermediary.

iv. ~~[ii.]~~ further comprising:

establishing one or more email account(s) and address(es) for Receiver Party, including establishing unique addresses, accounts,

mailboxes, pass-through means, or other identifiers or repositories for Receiver parties to receive communications or transmissions;

- v. establishing and providing a one or more network accessible searchable database(s), searchable ~~or~~ information display or interface of accounts, names, persons, entities, identifiers, or other references related to Persons or entities that have agreed to or able to receive email or communication for a fee to enable a Sender party to browse, to search for, to locate, or to find a Receiver Party or an address, account, location, or reference identification associated with a specific Receiver party to receive the communication;
- vi. and providing additional information, pages references, links, or other data about or concerning the receiver party or its associations.

- 3. (Currently amended) The method of claim 1, in which the step, or part of the step, of ~~inputting into the computer~~ ~~search terms or information to search for or to locate~~ ~~the address, account, location, or reference~~

~~identification associated with a specific party to~~  
~~receive the communication~~ to search for or to locate a  
Receiver Party or an address, name, account, location,  
affiliation, or reference identification associated with  
a specific party to receive the communication, comprises:

~~i. establishing unique addresses, accounts,~~  
~~mailboxes, pass-through means, or other~~  
~~identifiers or repositories for parties to~~  
~~receive, store, or access communications or~~  
~~transmissions;~~

i. ~~(ii.)~~ verifying, checking, or authenticating  
that the specific Receiver parties to receive  
the communication are authentically associated  
with the commonly known party most often or  
commonly associated in the public's mind with  
the name or association of the name given as a  
party intending to receive communication;

ii. ~~[iii.]~~ enabling the Merchant Intermediary,  
by automated means and other means, to check  
and verify the information provided by the  
Receiver Party upon the Receiver Party's  
establishment of an account and for the  
Merchant Intermediary to verify by use of third  
party authentication measures, computerized,  
automated, in person, and otherwise, that the  
Person or entity requesting to be affiliated

with the Name is actually associated with the  
named Receiver Party;

iii. [~~iv.~~] Providing a means for the Sender Party  
to search, find, locate, identify, and access  
addresses, accounts, locations, or reference  
identifications associated with a specific  
party to receive the communication or  
transmission;

iv. [~~v.~~] Providing additional information about  
the receiver party or its associations.

4. (Original) The method of claim 1, in which the step of  
inputting into the computer search terms or information  
to search for or to locate the address, account,  
location, or reference identification associated with a  
specific party to receive the communication, comprises:
- i. establishing addresses, accounts, locations,  
reference identifications, identifiers,  
channels, codes, e-mail addresses, web site  
addresses or pages, storage accounts, or other  
repositories, pass-through accounts,  
addresses, sites, or means for parties to  
receive or to store communication or  
transmission;

- ii. organizing the addresses, accounts, locations, reference identifications, identifiers, channels, codes, e-mail addresses, web site addresses or pages, storage accounts, or other repositories, pass-through accounts, addresses, sites or means so that they can be searched and located by the name or association of the parties to receive the communication or transmission;
- iii. providing a means to search, find, locate, identify, and access addresses, accounts, locations, or reference identifications associated with an account or address associated with a specific party to receive the communication or transmission.

5. (Currently amended) The method of claim 1, in which the step of ~~inputting into the computer information that creates, formats, forwards, edits, modifies, addresses, or directs a communication or transmission~~ enabling one or more Sender Parties to input ~~inputting~~ into the computer information (including inputting text, graphics, sound, or other information), that creates, formats, forwards, edits, modifies, addresses, or directs a communication or transmission, comprises:

- i. Providing services or means to enable Sender parties to input information such as text, audio, or graphics or to create, to format, or to direct communications, e-mail, or transmissions.

6. (Currently amended) The method of claim 1, in which the step of ~~inputting into the computer a payment identifier, account information, security code, or other information to enable parties to pay for, to assume a cost or obligation, to charge or otherwise to bill, to account, to debit, to access benefits, to license, or otherwise to transfer benefits or consideration~~ enabling one or more Sender Parties to input ~~inputting~~ into the computer a payment identifier, account information, security code, or other information to enable a Sender party to pay for, to assume a cost or obligation, to charge or otherwise to bill, to account, to debit, to access benefits, to license, or otherwise to transfer benefits or consideration that in whole or in part benefit a receiver party comprises:

- i. Establishing terms, conditions, and legal agreements between the Sender Party and the Merchant Intermediary parties;
- ii. Inputting or enabling Receiver parties to input into the computer information that forms

the basis of a contract and to require or to allow the Sender Party to accept or to form a legally binding contract or agreement between the Sender and Receiver parties on the Receiver Party's terms and conditions;

- iii. Enable Merchant Intermediary to authenticate or to verify, by automated, in person, third party or other authentication means, the identity and information provided by a Sender Party;
- iv. providing services or means to enable one or more Sender parties to pay for, to assume a cost or obligation, to charge or otherwise to bill, to account, to debit, to access benefits, to license, to provide consideration, or otherwise to compensate or benefit one or more other Receiver parties;
- v. providing services or means to process payment, to transact financial transfers, to authenticate or authorize transactions, to charge a Sender party a fee or cost, to receive payment and consideration, to segregate consideration received, to account for consideration received, or otherwise to enable a Sender party to provide or to transfer consideration.

7. (Currently amended) The method of claim 1, in which the step of ~~segregating, transmitting, storing, holding, distributing, or passing through transmissions or communications directed to an account, address, or location associated with a specific party, receiver, account, or address~~ segregating, transmitting, storing, holding, distributing, or passing through transmissions or communications directed to an account, address, or location associated with a specific receiver party, account, or address comprises:

- i. Segregating, storing, holding, or directing transmissions or communications directed to a specific receiver party in or to an web-based mail, traditional email, or other email account, location or address associated with a specific receiver party;
- ii. transmitting, passing through, or distributing communication to Receiver parties or to an account or address or location associated with receiver party on or corresponding to a receiver party's request or agreement to access or receive communication.

8. (Currently amended) The method of claim 1, in which the step of compensating party who receives communications or participates in the method comprises:

- i. Receiving, authorizing, and segregating financial and beneficial transfers;
- ii. accounting for fees, revenues, costs, and other items;
- ~~iii. transmitting, storing, holding, or distributing communication to receiver parties or to an account or address or location associated with receiver;~~
- ~~iv. enabling parties that have received communication to access the communication by enabling the parties to download, read, view, or otherwise access the communication;~~
- iii. [ ~~v.~~ ] compensating or paying parties that have received communication or participated for his or her or their reception, participation, or per agreement.

9. (Currently amended) A ~~system and~~ method for enabling or facilitating electronic communication in which a Merchant Intermediary enables or facilitates one party to pay a fee, bear a cost, or provide consideration that in whole or in part benefits the party that receives the communication for the right or opportunity to transmit or

to direct a communication to the receiver party,  
comprising:

- i. establishing an interface, site, identifier, or network presence on one or more networks or devices;
- ii. establishing addresses, accounts, identifiers, channels, codes, e-mail addresses, web site addresses, storage accounts, or other repositories, pass-through accounts, addresses, sites, or means;
- iii. establishing one or more unique ~~sites~~, accounts, or addresses for unique receiver parties in which the Merchant Intermediary may hold, segregate, or pass through information or transmissions directed to a specific Receiver, account, or address;
- iv. establishing a means for a Sender party to locate the address or account of a specific receiver party;
- v. providing services or means to allow Sender parties to create, to format, or to direct communications or transmissions to specified receiver parties;
- vi. providing services or means to allow Sender parties to pay for, to assume a cost or

- obligation, to charge or otherwise to bill, to account, to access benefits, to debit, to license, or otherwise to compensate or benefit the Merchant Intermediary or the Receiver;
- vii. charging or requiring a threshold payment of fee, accounting of pre-existing benefits, or a present transfer of benefits or consideration by Sender Caller Party, Fan, or other party on Sender Caller Party or Fan's behalf prior to connecting, sending, transmitting, or forwarding Sender Caller Party's or Fan's communication to Receiver Party's account, address, or to a location associated with a specific receiver;
- viii. (~~vii.~~) providing services or means to receive fees, to segregate benefits received, to charge Sender parties a fee or cost or otherwise processes financial transactions or transfers associated with a Sender party's acquiring the right or the opportunity to transmit or to direct communication to an address or account associated with a specific Receiver party;
- ix. (~~viii.~~) receiving, authorizing and accounting for fees, revenues, costs, and other items;

- x. (~~ix.~~) transmitting, storing, holding, or distributing Sender Party's communication to Receiver parties or to accounts, addresses, or locations associated with Receiver parties;
- xi. (~~x.~~) compensating or paying Receiver parties for his or her or their participation.

10. (Currently amended) The method of claim 1 wherein the Sender party is referred or delivered directly to a page, address, account, or location associated with a receiver party such that the Sender party does not have to input or to search for or locate the page, address, account, or location associated with a receiver party.

11. (Currently amended) The method of claim 1 wherein the Sender party does not have to input or enter any information or data relating to the address, account, or content of the communication because the Sender Party's communication is pre-existing or automatically directed, forwarded, transmitted, or otherwise addressed or sent to the address or account corresponding to the specific receiver party.

12. (Currently amended) The method of claim 1 wherein the Sender party does not have to enter any payment identifier, account information, security code, or other information to enable the Sender party to access an

existing account, to transfer payment, or to provide consideration because the Sender party's computer or other device, for example by use of cookies or other means, automatically provides this or other information.

13. (Withdrawn) ~~The method of claim 1, wherein the party does not have to pay fees, or bear a cost because a third party provides consideration or compensation that benefits the receiver party.~~

14. (Original) The method of claim 1 wherein the receiver party is compensated with consideration other than money.

15. (Original) The method of claim 1 wherein the receiver party may set the terms, price, and conditions of the agreement or communication.

16. (Currently amended) The ~~system and~~ method of claim 9 where the Sender Party's communication is stored on the email server, host computer, or other device of the Merchant Intermediary and not transmitted immediately to another computer.

17. (Currently amended) The method of claim 1 where the Sender Party's communication includes one of more types or kinds of data or information including for example, text, characters, audio, graphics, compressed video, instant messaging, chat, voice, or any other type of information that can be expressed in binary or digital form.
18. (Currently amended) The ~~system and~~ method of claim 9 wherein the ~~caller~~ Sender party accesses the Merchant Intermediary by utilizing a voice network or communicates using voice or audio information.
19. (Currently amended) The method of claim 1 wherein the steps or processes are automated or performed automatically, except for the steps ~~ii-iv~~ iii-v of claim 1 where they require inputting information into the computer.
20. (Currently amended) The method of claim 1 wherein the steps ~~ii-iv~~ iii-v of the method and steps may be taken in different orders or sequences or performed simultaneously.